

APPLICANT:
Bel Forest Baptist Church

REQUEST: A variance to allow a
modular classroom within the 80 foot
rear yard setback

HEARING DATES: February 4, 2004 and
March 17, 2004

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5395

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Bel Forest Baptist Church

LOCATION: 603 Vale Road
Tax Map: 48 / Grid: 1E / Parcel: 0192
Third Election District

ZONING: R2 / Urban Residential

REQUEST: A variance pursuant to Section 267-36B, Table V, of the Harford County Code to allow a modular classroom within the 80 foot rear yard setback (proposed 50 foot setback) in a R2 District.

TESTIMONY AND EVIDENCE OF RECORD:

For the Applicant testified James Harned, who identified himself as a member of Bel Forest Baptist Church and Administrator of the Bel Forest Christian Academy. Mr. Harned explained that the request is motivated by the desire of the Applicant and the Bel Forest Christian Academy to increase its classroom capacity, thereby benefitting its congregation and community. The Applicant currently has one 24 foot by 64 foot modular classroom unit on its grounds. The existing unit is located 80 feet from the subject property's southern boundary, and accordingly complies with Code requirements. The Applicant wishes to replace this modular unit with a 60 foot by 60 foot unit which would increase its classroom capacity allowing the Applicant to have a total of 6 classrooms. The additional classrooms would enable the Applicant to increase its enrollment by approximately 48 children. However, the installation of such a unit in this location would impact the required setback by 30 feet.

Mr. Harned explained that the Applicant would install landscaping if necessary. The Applicant had talked to the adjoining neighbors, and none expressed any opposition. Mr. Harned testified that, due to the location of the play-yards and other existing improvements on the property, all as shown on the Applicant's site plan, it would be virtually impossible, and highly impracticable, to locate the proposed classroom without impacting the setback. Mr. Harned believed there would be no adverse impact on any of the adjoining neighbors or on the neighborhood.

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Next for the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune explained that the property was unique based upon its configuration and existing improvements. The proposed location is the most practical location for expansion of the church facilities as the existing structures and necessary play-yards limit the available room for expansion. The Department, however, recommended additional landscaping.

Next testified Mr. Douglas C. Freeburger of 700 E. Farrow Court, Bel Air. Mr. Freeburger owns and lives at property immediately adjacent to the property of Applicant, opposite the proposed location of the proposed expanded modular classroom. Mr. Freeburger expressed his, and his neighbors' concern about the appearance of the new modular classroom. He was requesting landscaping to mitigate its impact.

The hearing was then rescheduled to give the Applicant an opportunity to consult with its adjoining neighbors and develop a landscaping plan.

The hearing resumed on March 17, 2004. At that time the Applicant presented a landscaping plan offered and accepted as Applicant's Exhibit No. 4. That landscaping plan showed a grouping of Leland Cypress being planted along the Applicant's property line. Mr. Harned of the Applicant indicated that the plan was to plant 16 Leland Cypress, 3 to 4 feet tall along the property line. Trees would be planted approximately 8 to 10 feet apart. Mr. Harned believed that these would be sufficient to provide an appropriate screen between the Applicant's expanded modular classroom and the adjoining neighbors.

Mr. Harned also introduced letters from three of the adjoining neighbors which expressed the neighbors' acceptance of the Applicant's landscaping plan.

The Department of Planning and Zoning, through its representative Anthony McClune, then expressed its opinion that the proposal should be sufficient provided that the trees are a minimum of 3' high when planted. The Department also recommends that the base of the proposed modular classroom on the neighbors' side be screened.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

"Variances.

- A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*

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- (1) *By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
 - (2) *The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*
- B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicant operates a community based church which is clearly of benefit to its congregation and surrounding community. It finds that its present classroom space is limited, and wishes to install a larger classroom unit. However, given the existing improvements on site and the site's configuration, the Applicant finds that the only practical location is one which would impact into the existing 80 foot rear yard setback by 30 feet.

With the exception of concerns about landscaping, no neighbor or other individual testified in opposition to the proposal, and the Harford County Department of Planning and Zoning found that there would be no adverse impact. It is according found that the proposed variance would have no adverse impact, and that the considerations of Section 267-9I, Limitations, Guides and Standards, are fully complied with.

It is further found that the property, given its present use, improvements and configuration create a practical difficulty for the Applicant if the requirement that it maintain an 80 foot rear yard setback is enforced. That practical difficulty is the inability of the Applicant to expand its classroom facility.

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It is accordingly found that a 30 foot variance to the rear yard setback is justified in order to alleviate the practical difficulty or unreasonable hardship caused by the unusual circumstances of the site. It is further found that the variance would not be detrimental to any adjacent properties or impair the purpose of the Code, provided adequate screening is installed.

CONCLUSION:

It is accordingly recommended that the requested variance be granted, subject to the following:

1. That Applicant obtain all necessary permits and inspections for the location of the proposed structure.
2. The Applicant submit a landscaping plan to the Harford County Department of Planning and Zoning for review and approval. Said plan shall include, at a minimum, a planting of Leland Cypress, not less than 3 feet tall when planted, as shown on Applicant's Exhibit 4; and sufficient ground level vegetation surrounding the base of the new modular classroom, so as to help mitigate the impact of the structure from those neighbors.
3. That there be no further expansion of any nature into the required setback without further Board approval.

Date: April 8, 2004

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner